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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,660	02/06/2002	Shihoko Sekiguchi	500.41164X00	5726

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EXAMINER

ABEL JALIL, NEVEEN

ART UNIT	PAPER NUMBER
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2175

DATE MAILED: 06/07/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/066,660

Applicant(s)

SEKIGUCHI ET AL.

Examiner

Neveen Abel-Jalil

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7-9 is/are rejected.
- 7) ☒ Claim(s) 5 and 6 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.



SAM RIMELL
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 8, line 5, the recitation of "a judgment" is deemed to be indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to the Examiner by whom the judgment is made? Or how it is made? The process of making the "judgment" is not defined in the claim language.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-4, and 7-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Yanai et al. (U.S. Pub. No. 2004/0073831 A1).

As to claim 1, Yanai et al. discloses a storage resource operation managing method in a storage network arranged by a node for transmitting an access -request via a network to a storage and by a storage group constituted by at least one storage resource which receives said access request so as to execute a content of the access request (See page 21, paragraph 0262), comprising the steps of:

acquiring at least one of a logical distance and a geographical distance from at least one of, said node and said storage resource contained in said storage group, and said storage resources contained in said storage group (See page 18, paragraphs 0232-0233);

acquiring from said node, a requirement range with respect to at least one of said logical," distances and said geographical distances (See page 3, paragraphs 0029-0031); and

selecting at least one storage resource for executing the access request issued from said node from said storage group, while at least one of said requirement range with respect to said logical distance and said requirement range with respect to said geographical distance is set as a selecting condition (See page 21, paragraphs 0258-0260).

As to claim 2, Yanai et al. discloses wherein as said storage resource selecting condition, at least one storage resource is selected which is located within said requirement range of at least one of said logical distance and said geographical distance (See page 28, paragraph 0443, and see page 28, paragraph 0465).

As to claim 3, Yanai et al. discloses within at least one storage resource located in said requirement range, at least such one storage resource is selected whose at least one of said

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logical distance and said geographical distance is closer than those of other storage resources (See page 8, paragraph 0105).

As to claim 4, Yanai et al. discloses within at least one storage resource located in said requirement range, at least such one storage resource is selected, the geographic distance of which is far from the geographical distance of another storage resource (See page 6, paragraphs 0080-0084).

As to claim 7, Yanai et al. discloses with respect to at least a first storage resource contained in said storage group (See page 21, paragraph 0262),

a requirement range with respect to a geographical distance from said first storage resource is acquired (See page 3, paragraphs 0029-0031);

a second storage resource is selected from said storage group located within the requirement range with respect to said geographical distance from said first storage resource, or a second storage within the requirement range with respect to said geographical distance from said first storage resource (See page 5, paragraphs 0064-0066);

copied data as to a least a data portion of such data stored in said first storage resource is stored into said second storage resource (See page 19, paragraphs 0242-0245); and

in the case that an occurrence of a trouble of said first storage resource is detected, the access request issued from said node, which is transmitted to said first storage resource, is executed with respect to said copied data of the data stored in said second storage resource (See page 19, paragraph 0239).

As to claim 8, Yanai et al. discloses in such a case that a geographical location of said node is changed from a first setting position to a second setting position, a judgment is made as to whether or not a logical distance defined from said node set at the second setting position up to such a storage resource which executes an access request transmitted by said node is located within said requirement range (See page 1, paragraphs 0011-0013);

and when the logical distance from said second setting position is located within said requirement range, the data stored in said storage resource is not moved into another storage resource (See page 16, paragraphs 0202-0204).

As to claim 9, Yanai et al. discloses in a storage network which is arranged by a node for transmitting an access request via a network to a storage; a storage group constituted by at least one storage resource which receives said access request so as to execute a content of the access request; and a management server (See page 21, paragraph 0262),, said management server comprising:

means for acquiring at least one of a logical distance and a geographical distance from at least one of, said node and said storage resource contained in said storage group, and said storage resources contained in said storage group (See page 6, paragraphs 0077-0078, and see page 8, paragraph 0100);

means for acquiring from said node, a requirement range with respect to at least one of said logical distances and said geographical distance (See page 3, paragraphs 0029-0031); and

means for selecting at least one storage resource for executing the access request issued from said node from said storage group, while at least one of said requirement range with respect to said logical distance and said requirement range with respect to said geographical distance is set as a selecting condition (See page 21, paragraphs 0258-0260).

Allowable Subject Matter

5. Claims 5-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form **including** all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record (Yanai et al. (U.S. Pub. No. 2004/0073831 A1)) does not disclose, teach, or suggest the claimed limitations of (in combination with all other features in the claim), in such a case that the storage resource located within said requirement range is not present within said storage group, such a storage resource is selected whose at least one of said logical distance and said geographical distance is closer than those of another storage resource from said storage group, as claimed in claim 5, in conjunction with remaining claims provisions.

The prior art of record (Yanai et al. (U.S. Pub. No. 2004/0073831 A1)) does not disclose, teach, or suggest the claimed limitations of (in combination with all other features in the claim), in such a case that the storage resource located within said requirement range is not present

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within said storage group, such a storage resource is newly added whose at least one of said logical distance and said geographical distance is located within said requirement range, as claimed in claim 6, in conjunction with remaining claims provisions.

Conclusion


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 703-305-8114.

The examiner can normally be reached on 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici can be reached on 703-305-3830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Neveen Abel-Jalil
May 20, 2004


SAM RIMELL
PRIMARY EXAMINER